

FIRST REGULAR SESSION

# SENATE BILL NO. 457

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR PURGASON.

Read 1st time February 6, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2006S.011

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## AN ACT

To repeal sections 476.083, 571.080, and 571.090, RSMo, and to enact in lieu thereof two new sections relating to the criminal justice system, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 476.083, 571.080, and 571.090, RSMo, are repealed  
2 and two new sections enacted in lieu thereof, to be known as sections 476.083 and  
3 571.080, to read as follows:

476.083. 1. In addition to any appointments made pursuant to section  
2 485.010, RSMo, the presiding judge of each circuit containing one or more  
3 facilities operated by the department of corrections with an average total inmate  
4 population in all such facilities in the circuit over the previous two years of more  
5 than two thousand five hundred inmates may appoint a circuit court marshal to  
6 aid the presiding judge in the administration of the judicial business of the circuit  
7 by overseeing the physical security of the courthouse, serving court-generated  
8 papers and orders, and assisting the judges of the circuit as the presiding judge  
9 determines appropriate. Such circuit court marshal appointed pursuant to the  
10 provisions of this section shall serve at the pleasure of the presiding judge. The  
11 circuit court marshal authorized by this section is in addition to staff support  
12 from the circuit clerks, deputy circuit clerks, division clerks, municipal clerks,  
13 and any other staff personnel which may otherwise be provided by law.

14 2. The salary of a circuit court marshal shall be established by the  
15 presiding judge of the circuit within funds made available for that purpose, but  
16 such salary shall not exceed ninety percent of the salary of the highest paid  
17 sheriff serving a county wholly or partially within that circuit. Personnel

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 authorized by this section shall be paid from state funds or federal grant moneys  
19 which are available for that purpose and not from county funds.

20 3. Any person appointed as a circuit court marshal pursuant to this  
21 section shall have at least five years' prior experience as a law enforcement  
22 officer. In addition, any such person shall within one year after appointment, or  
23 as soon as practicable, attend a court security school or training program  
24 operated by the United States Marshal Service. In addition to all other powers  
25 and duties prescribed in this section, a circuit court marshal may:

26 (1) Serve process;

27 (2) Wear a concealable firearm[, pursuant to a permit granted under  
28 section 571.090, RSMo]; and

29 (3) Make an arrest based upon local court rules and state law, and as  
30 directed by the presiding judge of the circuit.

571.080. 1. A person commits the crime of transfer of a concealable  
2 firearm [without a permit if:

3 (1) He buys, leases, borrows, exchanges or otherwise receives any  
4 concealable firearm, unless he first obtains and delivers to the person delivering  
5 the firearm a valid permit authorizing the acquisition of the firearm; or

6 (2) He sells, leases, loans, exchanges, gives away or otherwise delivers any  
7 concealable firearm, unless he first demands and receives from the person  
8 receiving the firearm a valid permit authorizing such acquisition of the firearm.

9 2. A permit to acquire a concealable firearm shall only be valid for thirty  
10 days after the issuance thereof.

11 3. Subsection 1 of this section shall not apply to the acquisition by or  
12 transfer of concealable firearms among manufacturers, wholesalers or retailers  
13 of firearms for purposes of commerce; nor shall it apply to antique firearms or  
14 replicas thereof; nor shall it apply to curio or relic firearms as defined in section  
15 571.010] **if such person violates 18 U.S.C. Section 922(b) or 18 U.S.C.**  
16 **Section 922(x).**

17 [4.] 2. Transfer of concealable firearms [without a permit is a class A  
18 misdemeanor] **is an infraction punishable by a fine not to exceed one**  
19 **hundred dollars.**

[571.090. 1. A permit to acquire a concealable firearm shall  
2 be issued by the sheriff of the county in which the applicant  
3 resides, if all of the statements in the application are true, and the  
4 applicant:

(1) Is at least twenty-one years of age, a citizen of the United States and has resided in this state for at least six months;

(2) Has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(3) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(4) Has not been discharged under dishonorable conditions from the United States armed forces;

(5) Is not publicly known to be habitually in an intoxicated or drugged condition; and

(6) Is not currently adjudged mentally incompetent and has not been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state.

2. Applications shall be made to the sheriff of the county in which the applicant resides. An application shall be filed in writing, signed and verified by the applicant, and shall state only the following: the name, Social Security number, occupation, age, height, color of eyes and hair, residence and business addresses of the applicant, the reason for desiring the permit, and whether the applicant complies with each of the requirements specified in subsection 1 of this section.

3. Before a permit is issued, the sheriff shall make only such inquiries as he deems necessary into the accuracy of the statements made in the application. The sheriff may require that

41 the applicant display a Missouri operator's license or other suitable  
42 identification. The sheriff shall issue the permit within a period  
43 not to exceed seven days after submission of the properly completed  
44 application excluding Saturdays, Sundays or legal holidays.

45 The sheriff may refuse to issue the permit if he determines that  
46 any of the requirements specified in subsection 1 of this section  
47 have not been met, or if he has reason to believe that the applicant  
48 has rendered a false statement regarding any of the provisions in  
49 subsection 1 of this section. If the application is approved, the  
50 sheriff shall issue a permit and a copy thereof to the applicant.

51 4. The permit shall recite the date of issuance, that it is  
52 invalid after thirty days, the name and address of the person to  
53 whom granted, the nature of the transaction, and a physical  
54 description of the applicant. The applicant shall sign the permit  
55 in the presence of the sheriff.

56 5. If the permit is used, the person who receives the permit  
57 from the applicant shall return it to the sheriff within thirty days  
58 after its expiration, with a notation thereon showing the date and  
59 manner of disposition of the firearm and a description of the  
60 firearm including the make, model and serial number. The sheriff  
61 shall keep a record of all applications for permits, his action  
62 thereon, and shall preserve all returned permits.

63 6. No person shall in any manner transfer, alter or change  
64 a permit, or make a false notation thereon, or obtain a permit upon  
65 any false representation, or use, or attempt to use a permit issued  
66 to another.

67 7. For the processing of the permit, the sheriff in each  
68 county and the city of St. Louis shall charge a fee not to exceed ten  
69 dollars which shall be paid into the treasury of the county or city  
70 to the credit of the general revenue fund.

71 8. In any case when the sheriff refuses to issue or to act on  
72 an application for a permit, such refusal shall be in writing setting  
73 forth the reasons for such refusal. Such written refusal shall  
74 explain the denied applicant's right to appeal and, with a copy of  
75 the completed application, shall be given to the denied applicant  
76 within a period not to exceed seven days after submission of the

properly completed application excluding Saturdays, Sundays or legal holidays. The denied applicant shall have the right to appeal the denial within ten days of receiving written notice of the denial. Such appeals shall be heard in small claims court as defined in section 482.300, RSMo, and the provisions of sections 482.300, 482.310 and 482.335, RSMo, shall apply to such appeals.

9. A denial of or refusal to act on an application for permit may be appealed by filing with the clerk of the small claims court a copy of the sheriff's written refusal and a form substantially similar to the appeal form provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

#### SMALL CLAIMS COURT

In the Circuit Court of ..... Missouri

Case Number .....

....., Denied Applicant)

)

vs.

)

)

....., Sheriff

)

Return Date .....

#### DENIAL OF PERMIT APPEAL

The denied applicant states that his properly completed application for a permit to acquire a firearm with a barrel of less than sixteen inches was denied by the sheriff of ..... County, Missouri, without just cause. The denied applicant affirms that all of the statements in the application are true.

.....

Denied Applicant

10. The notice of appeal in a denial of permit appeal shall be made to the sheriff in a manner and form determined by the small claims court judge.

11. If at the hearing the person shows he is entitled to the requested permit, the court shall issue an appropriate order to cause the issuance of the permit. Costs shall not be assessed

113 against the sheriff in any case.

114 12. Any person aggrieved by any final judgment rendered  
115 by a small claims court in a denial of permit appeal may have a  
116 trial de novo as provided in sections 512.180 to 512.320, RSMo.

117 13. Violation of any provision of this section is a class A  
118 misdemeanor.]

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Unofficial

Bill

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